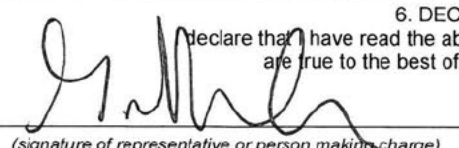


UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 32-CA-273087	Date Filed 2/19/2021

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
a. Name of Employer Clayco Inc. DBA Clayco Construction Company Inc.		b. Tel. No. (314) 429-5100	
		c. Cell No.	
		f. Fax No.	
d. Address (Street, city, state, and ZIP code) 2199 Innerbelt Business Center St Louis, Missouri 63114		e. Employer Representative (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), Clayco	
		g. e-mail (b) (6), (b) (7)(C)@claycorp.	
		h. Number of workers employed	
i. Type of Establishment (factory, mine, wholesaler, etc.) General Contractor		j. Identify principal product or service Construction	
The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Within the past six months, the above-named employer has violated the Act by discriminatorily and in retaliation for protected concerted activity, interfered with the exercise of protected rights by preventing access, physically assaulting, battering, and threatening a Union agent with a "dirt nap" when the Union's agent visited the job site to check on a Union signatory who had been, is currently, or will be on the job site. These events occurred at the company's project in San Joaquin County, California. By these and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of their rights guaranteed in Section 7 of the Act. 150692			
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Pile Drivers Local Union No. 34			
4a. Address (Street and number, city, state, and ZIP code) 55 Hegenberger Place Oakland, CA 94621		4b. Tel. No. (510) 635-4227	
		4c. Cell No.	
		4d. Fax No. (510) 635-1234	
		4e. e-mail tlipscomb@nccrc.org	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) United Brotherhood of Carpenters and Joiners of America			
6. DECLARATION  (signature of representative or person making charge)		Tel. No. (916) 443-6600	
Matthew J. Gauger, Attorney (Print/type name and title or office, if any)		Office, if any, Cell No.	
		Fax No. (916) 442-0244	
Address 431 I Street, Suite 202, Sacramento, CA 95814		e-mail mgauger@unioncounsel.net	
Date Feb 19, 2021			

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlr.gov
Telephone: (510)637-3300
Fax: (510)637-3315



Download
NLRB
Mobile App

February 22, 2021

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Clayco, Inc. d/b/a Clayco Construction Company, Inc.
2199 Innerbelt Business Center
St. Louis, MO 63114

Re: Clayco, Inc. dba Clayco Construction
Company, Inc.
Case 32-CA-273087

Dear (b) (6), (b) (7)(C)

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner STEPHEN M. SLOPER whose telephone number is (510)671-3045. If this Board agent is not available, you may contact Acting Assistant to the Regional Director HOKULANI VALENCIA whose telephone number is (510)671-3047.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not

have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



VALERIE HARDY-MAHONEY
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

cc: (b) (6), (b) (7)(C), Clayco
Clayco, Inc. d/b/a Clayco Construction
Company, Inc.
2199 Innerbelt Business Center
St. Louis, CA 63114

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 32-CA-273087
-----------	-----------------------------

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
--	--

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
------	-------	----------------	-------------

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
--------------------------------	-----------	----------------	------

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**CLAYCO, INC. DBA CLAYCO
CONSTRUCTION COMPANY, INC.**

Charged Party

and

PILE DRIVERS LOCAL UNION NO. 34

Charging Party

Case 32-CA-273087

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on February 22, 2021, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

Clayco, Inc. d/b/a Clayco Construction
Company, Inc.
2199 Innerbelt Business Center
St. Louis, MO 63114

(b) (6), (b) (7)(C)

Clayco, Inc. d/b/a Clayco Construction
Company, Inc.
2199 Innerbelt Business Center
St. Louis, CA 63114

February 22, 2021

Date

Donna Gentry, Designated Agent of NLRB

Name

/s/ Donna Gentry

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlrb.gov
Telephone: (510)637-3300
Fax: (510)637-3315



Download
NLRB
Mobile App

February 22, 2021

Timothy Lipscomb
Pile Drivers Local Union No. 34
55 Hegenberger Place
Oakland, CA 94621

Re: Clayco, Inc. dba Clayco Construction
Company, Inc.
Case 32-CA-273087

Dear Mr. Lipscomb:

The charge that you filed in this case on February 19, 2021 has been docketed as case number 32-CA-273087. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner STEPHEN M. SLOPER whose telephone number is (510)671-3045. If this Board agent is not available, you may contact Acting Assistant to the Regional Director HOKULANI VALENCIA whose telephone number is (510)671-3047.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you

fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability.
Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The script is cursive and fluid, with the first name "Valerie" being more prominent than the last name.

VALERIE HARDY-MAHONEY
Regional Director

cc: Matthew J. Gauger, Attorney
Weinberg, Roger, & Rosenfeld
431 I Street, Suite 202
Sacramento, CA 95814-2320



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlrb.gov
Telephone: (510)637-3300
Fax: (510)637-3315

June 11, 2021

TOD O'DONOGHUE, ATTORNEY
HESSE MARTONE, P.C.
530 MARYVILLE CENTRE DRIVE, SUITE 250
ST. LOUIS, MO 63141

ANDREW J. MARTONE, ATTORNEY
HESSE MARTONE, P.C.
530 MARYVILLE CENTRE DRIVE, SUITE 250
ST. LOUIS, MO 63141

**Re: Clayco, Inc. dba Clayco Construction
Company, Inc.
Cases 32-CA-273087
32-CA-274681**

Dear Mr. O'Donoghue and Mr. Martone:

This is to advise you that I have approved the withdrawal of the charges in the above cases.

Very truly yours,

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The signature is written in a cursive, flowing style.

Valerie Hardy-Mahoney
Regional Director

cc: TIMOTHY LIPSCOMB, UNION REPRESENTATIVE
PILE DRIVERS LOCAL UNION NO. 34
55 HEGENBERGER PLACE
OAKLAND, CA 94621

MATTHEW J. GAUGER, ATTORNEY
WEINBERG, ROGER, & ROSENFELD
431 I STREET, SUITE 202
SACRAMENTO, CA 95814-2320

(b) (6), (b) (7)(C)

CLAYCO, INC. DBA CLAYCO CONSTRUCTION COMPANY, INC.
2199 INNERBELT BUSINESS CENTER
SAINT LOUIS, MO 63114

(b) (6), (b) (7)(C)

CLAYCO
CLAYCO, INC. DBA CLAYCO CONSTRUCTION COMPANY, INC.
2199 INNERBELT BUSINESS CENTER
SAINT LOUIS, MO 63114

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

32-CA-274681

Date Filed

3/25/2021

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Clayco Inc. dba Clayco Construction Company Inc.		b. Tel. No. (314) 429-5100
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 2199 Innerbelt Business Center St Louis, Missouri 63114	e. Employer Representative (b) (6), (b) (7)(C)	g. e-mail (b) (6), (b) (7)(C)@claycorp.
		h. Number of workers employed
i. Type of Establishment (factory, mine, wholesaler, etc.) General Contractor	j. Identify principal product or service Construction	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Within the past six months, the above-named employer has violated the Act by discriminatorily and in retaliation for protected concerted activity, interfered with the exercise of protected rights by surveilling, stalking, menacing and becoming aggressive against the Union agent while the Union attempted to contact workers from public property and intimidating workers on their breaks through surveillance. These events occurred at the company's project in San Joaquin County, California. By these and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of their rights guaranteed in Section 7 of the Act.

150718

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
Pile Drivers Local Union No. 34

4a. Address (Street and number, city, state, and ZIP code) 55 Hegenberger Place Oakland, CA 94621	4b. Tel. No. (510) 635-4227
	4c. Cell No.
	4d. Fax No. (510) 635-1234
	4e. e-mail tipscomb@nccrc.org

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
United Brotherhood of Carpenters and Joiners of America

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

Matthew J. Gauger, Attorney

(signature of representative or person making charge)

(Print/type name and title or office, if any)

Tel. No.
(916) 443-6600

Office, if any, Cell No.

Fax No.
(916) 442-0244e-mail
mgauger@unioncounsel.net

Address 431 I Street, Suite 202, Sacramento, CA 95814

Date Mar 25, 2021

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

1 **CERTIFICATE OF SERVICE**

2 I am a citizen of the United States and a resident of Sacramento County, State of California.
3 I am over the age of eighteen years and not a party to the within action; my business address is 431
4 I Street, Suite 202, Sacramento, California 95814.

5 On March 25, 2021, I served the within:

6 *Pile Drivers Local Union No. 34 v.*
7 *Clayco Inc. dba Clayco Construction Company Inc.*

8 **CHARGE AGAINST EMPLOYER**

9 **[X] BY MAIL:** I placed a true copy of each document listed herein in a sealed envelope,
10 addressed as indicated herein, and caused each such envelope, with postage thereon fully
11 prepaid, to be placed in the United States mail at Sacramento, California. I am readily
familiar with the practice of Weinberg, Roger & Rosenfeld for collection and processing of
correspondence for mailing, said practice being that in the ordinary course of business, mail
is deposited in the United States Postal Service the same day as it is placed for collection.

12 **[] BY UPS NEXT DAY AIR:** I caused a copy of each document listed herein to be served
13 by UPS Next Day Air, addressed as indicated herein.

14 **[] BY FACSIMILE:** I caused to be transmitted each document listed herein via the fax
number(s) listed on the attached service list.

15 **[] BY E-MAIL:** I electronically served the above-described document on the following
16 parties by electronically transmitting the foregoing to the e-mail addresses listed.

17 (b) (6), (b) (7)(C)
18 (b) (6), (b) (7)(C)
19 Clayco Inc. dba Clayco Construction Company Inc.
20 2199 Innerbelt Business Center
21 St Louis, Missouri 63114
(b) (6), (b) (7)(C) @claycorp.com
(b) (6), (b) (7)(C) @claycorp.com

22 I declare that I am employed in the office of a member of the bar of this Court at whose
23 direction the service was made. I declare under penalty of perjury under the laws of the United
24 States of America that the foregoing is true and correct.

25 (b) (6), (b) (7)(C)
26
27

28 150718\1156711



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlr.gov
Telephone: (510)637-3300
Fax: (510)637-3315



Download
NLRB
Mobile App

March 26, 2021

(b) (6), (b) (7)(C)

Clayco, Inc. d/b/a Clayco Construction Company, Inc.
2199 Innerbelt Business Center
St. Louis, MO 63114

Re: Clayco, Inc. dba Clayco Construction
Company, Inc.
Case 32-CA-274681

Dear (b) (6), (b) (7)(C)

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner STEPHEN M. SLOPER whose telephone number is (510)671-3045. If this Board agent is not available, you may contact Acting Assistant to the Regional Director HOKULANI VALENCIA whose telephone number is (510)671-3047.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not

have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



VALERIE HARDY-MAHONEY
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

cc: (b) (6), (b) (7)(C), Clayco
Clayco, Inc. d/b/a Clayco Construction
Company, Inc.
2199 Innerbelt Business Center
St. Louis, CA 63114

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 32-CA-274681
-----------	-----------------------------

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
--	--

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
------	-------	----------------	-------------

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
--------------------------------	-----------	----------------	------

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**CLAYCO, INC. DBA CLAYCO
CONSTRUCTION COMPANY, INC.**

Charged Party

and

PILE DRIVERS LOCAL UNION NO. 34

Charging Party

Case 32-CA-274681

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on March 26, 2021, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

Clayco, Inc. d/b/a Clayco Construction
Company, Inc.
2199 Innerbelt Business Center
St. Louis, MO 63114

(b) (6), (b) (7)(C)

, Clayco
Clayco, Inc. d/b/a Clayco Construction
Company, Inc.
2199 Innerbelt Business Center
St. Louis, CA 63114

March 26, 2021

Date

Vicky Luu, Designated Agent of NLRB

Name

/s/ V Luu

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlr.gov
Telephone: (510)637-3300
Fax: (510)637-3315



Download
NLRB
Mobile App

March 26, 2021

Timothy Lipscomb
Pile Drivers Local Union No. 34
55 Hegenberger Place
Oakland, CA 94621

Re: Clayco, Inc. dba Clayco Construction
Company, Inc.
Case 32-CA-274681

Dear Mr. Lipscomb:

The charge that you filed in this case on March 25, 2021 has been docketed as case number 32-CA-274681. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner STEPHEN M. SLOPER whose telephone number is (510)671-3045. If this Board agent is not available, you may contact Acting Assistant to the Regional Director HOKULANI VALENCIA whose telephone number is (510)671-3047.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you

fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case **MUST** be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability.
Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The signature is written in a cursive, flowing style.

VALERIE HARDY-MAHONEY
Regional Director

cc: Matthew J. Gauger, Attorney
Weinberg, Roger, & Rosenfeld
431 I Street, Suite 202
Sacramento, CA 95814-2320

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

32-CA-275700

Date Filed

04/15/2021

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Clayco Inc. dba Clayco Construction Company Inc.		b. Tel. No. (314) 429-5100
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 2199 Innerbelt Business Center St Louis, Missouri 63114	e. Employer Representative (b) (6), (b) (7)(C)	g. e-mail (b) (6), (b) (7)(C)@claycorp.
		h. Number of workers employed
i. Type of Establishment (factory, mine, wholesaler, etc.) General Contractor	j. Identify principal product or service Construction	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)
Within the past six months, the above-named employer has violated the Act by discriminatorily and in retaliation for protected concerted activity, interfered with the exercise of protected rights by surveilling Union agents and workers while the Union was talking to the workers outside the job site and intimidating workers on their breaks and before and after work through surveillance. These events occurred at the company's project in San Joaquin County, California. By these and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of their rights guaranteed in Section 7 of the Act.

151532

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
Pile Drivers Local Union No. 34

4a. Address (Street and number, city, state, and ZIP code) 55 Hegenberger Place Oakland, CA 94621	4b. Tel. No. (510) 635-4227
	4c. Cell No.
	4d. Fax No. (510) 635-1234
	4e. e-mail tlipscomb@nccrc.org

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
United Brotherhood of Carpenters and Joiners of America

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

Matthew J. Gauger, Attorney

(Signature of representative or person making charge)

(Print/type name and title or office, if any)

Tel. No.
(916) 443-6600

Office, if any, Cell No.

Fax No.
(916) 442-0244e-mail
mgauger@unioncounsel.net

Address 431 I Street, Suite 202, Sacramento, CA 95814

Date Apr 15, 2021

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlr.gov
Telephone: (510)637-3300
Fax: (510)637-3315



Download
NLRB
Mobile App

April 16, 2021

(b) (6), (b) (7)(C) Clayco Inc. 2199 Innerbelt Business Center Saint Louis MO 63114	(b) (6), (b) (7)(C), Clayco Clayco Inc. 2199 Innerbelt Business Center Saint Louis MO 63114
--	--

Re: Clayco, Inc. dba
Clayco Construction Company, Inc.
Case 32-CA-275700

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner STEPHEN M. SLOPER whose telephone number is (510)671-3045. If this Board agent is not available, you may contact Acting Assistant to the Regional Director HOKULANI VALENCIA whose telephone number is (510)671-3047.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not

have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



VALERIE HARDY-MAHONEY
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

cc:

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 32-CA-275700
-----------	-----------------------------

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
--	--

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
------	-------	----------------	-------------

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
--------------------------------	-----------	----------------	------

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**CLAYCO, INC. DBA CLAYCO
CONSTRUCTION COMPANY, INC.**

Charged Party

and

PILE DRIVERS LOCAL UNION NO. 34

Charging Party

Case 32-CA-275700

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on April 16, 2021, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)
Clayco Inc.
2199 Innerbelt Business Center
Saint Louis MO 63114

(b) (6), (b) (7)(C), Clayco
Clayco Inc.
2199 Innerbelt Business Center
Saint Louis MO 63114

April 16, 2021

Date

Caroline Barker, Designated Agent of NLRB

Name

/s/ Caroline Barker

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlrb.gov
Telephone: (510)637-3300
Fax: (510)637-3315



Download
NLRB
Mobile App

April 16, 2021

Timothy Lipscomb, Union Representative
Pile Drivers Local Union No. 34
55 Hegenberger Place
Oakland CA 94621

Re: Clayco, Inc. dba
Clayco Construction Company, Inc.
Case 32-CA-275700

Dear Mr. Lipscomb:

The charge that you filed in this case on April 15, 2021 has been docketed as case number 32-CA-275700. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner STEPHEN M. SLOPER whose telephone number is (510)671-3045. If this Board agent is not available, you may contact Acting Assistant to the Regional Director HOKULANI VALENCIA whose telephone number is (510)671-3047.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you

fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability.
Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The signature is written in a cursive, flowing style.

VALERIE HARDY-MAHONEY
Regional Director

cc: Matthew J. Gauger, Attorney
Weinberg Roger & Rosenfeld
431 I Street
Suite 202
Sacramento CA 95814



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlrb.gov
Telephone: (510)637-3300
Fax: (510)637-3315

June 11, 2021

MATTHEW J. GAUGER, ATTORNEY
WEINBERG ROGER & ROSENFELD
431 I STREET, SUITE 202
SACRAMENTO, CA 95814

**Re: Clayco, Inc. dba Clayco Construction
Company, Inc.
Case 32-CA-275700**

Dear Mr. Gauger:

We have carefully investigated and considered your charge that Clayco, Inc. dba Clayco Construction Company, Inc. has violated the National Labor Relations Act.

Conditional Decision to Dismiss: Based on that investigation, it appears that your charge may have merit. However, I have conditionally decided to dismiss your charge 6 months from today because there have not been any meritorious charges against Clayco, Inc. dba Clayco Construction Company, Inc. within the past several years, and because the conduct of photographing Union representatives passing out literature to exiting vehicles was isolated in nature and of limited duration. Further, there is no evidence the conduct has an ongoing unlawful effect on employees' terms and conditions of employment.

If a meritorious charge involving other unfair labor practices is filed against the Charged Party during that period, I will reconsider whether further proceedings on this charge are warranted.

Charging Party's Right to Appeal: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible (Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at www.nlrb.gov. See [User Guide](#). A video demonstration which provides [step-by-step instructions](#) and frequently asked questions are also available at www.nlrb.gov. If you require additional assistance with E-Filing, please contact E-Filing@nlrb.gov).

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel** at the **National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **June 25, 2021**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than June 24, 2021. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before June 25, 2021**. The request may be filed electronically through the **E-File Documents** link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after June 25, 2021, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor requests to limit our use of appeal statements or evidence. Upon a request under the Freedom of Information Act (FOIA) by a party during the processing of an appeal, the Agency's FOIA Branch discloses appeal statements, redacted for personal privacy, confidential source protection, or other applicable FOIA exemptions. In the event the appeal is sustained, any statement or material submitted may be introduced as evidence at a hearing before an administrative law judge. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Very truly yours,



Valerie Hardy-Mahoney
Regional Director

Enclosure

cc:

(b) (6), (b) (7)(C)

CLAYCO, INC. DBA CLAYCO CONSTRUCTION COMPANY, INC.
2199 INNERBELT BUSINESS CENTER
SAINT LOUIS, MO 63114

(b) (6), (b) (7)(C)

, CLAYCO
CLAYCO, INC. DBA CLAYCO CONSTRUCTION COMPANY, INC.
2199 INNERBELT BUSINESS CENTER
SAINT LOUIS, MO 63114

ANDREW J. MARTONE, ATTORNEY AT LAW
HESSE MARTONE, P.C.
530 MARYVILLE CENTRE DRIVE, SUITE 250
ST. LOUIS, MO 63141

TOD O'DONOGHUE, ATTORNEY
HESSE MARTONE, P.C.
530 MARYVILLE CENTRE DRIVE, SUITE 250
ST. LOUIS, MO 63141

TIMOTHY LIPSCOMB, UNION REPRESENTATIVE
PILE DRIVERS LOCAL UNION NO. 34
55 HEGENBERGER PLACE
OAKLAND, CA 94621

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)

E-FILING TO APPEALS

1. **Extension of Time:** This document is used when the Charging Party is asking for more time to efile an Appeal.
 - If an Extension of Time is e-filed, and there are additional documents to be e-filed simultaneously with it, please e-file those documents under the selection **Correspondence**.
 - After an Extension of Time has already been e-filed, any **additional** materials to add to the Extension of Time should be e-filed under **Correspondence**.
2. **File an Appeal:** If the Charging Party does not agree with the Region's decision on the case, an Appeal can be e-filed.
 - Only **one (1) Appeal** can be e-filed to **each** determination in the Region's decision letter that is received.
 - After an Appeal has been e-filed, any **additional** materials to add to the Appeal should be e-filed under **Correspondence**.
3. **Notice of Appearance:** Either party can e-file a Notice of Appearance if there is a new counsel representing one side or a different counsel.
 - This document is only e-filed with the Office of Appeals after a decision has been made by the Region.
 - This document can be e-filed **before** an Appeal is e-filed.
4. **Correspondence:** Parties will **select** Correspondence when adding documents or supplementing the Appeal or Extension of Time.
 - Correspondence is used to e-file documents **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.
5. **Position Statement:** The Charging Party or Charged Party may e-file a Position Statement.
 - The Charging Party will e-file this document as a supplement of the Appeal.
 - The Charged Party will specifically file one to support the Region's decision.
 - This document should be e-filed **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.
6. **Withdrawal Request:** If the Charging Party decides to no longer pursue their appeal, he/she can e-file a Withdrawal Request to the Office of Appeals.
 - This document should be e-Filed **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.



7. The selections of **Evidence** or **Other** should no longer be used.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

June 16, 2021

MATTHEW J. GAUGER, ESQ.
WEINBERG ROGER & ROSENFELD
431 I ST STE 202
SACRAMENTO, CA 95814

Re: Clayco, Inc. dba Clayco Construction
Company, Inc.
Case 32-CA-275700

Dear Mr. Gauger:

We have received your appeal. We will assign it for processing in accordance with Agency procedures, which include review of the investigatory file and your appeal in light of current Board law. We will notify you by email, if an email address is provided, and all other involved parties as soon as possible of our decision.

Sincerely,

Peter Sung Ohr
Acting General Counsel

A handwritten signature in black ink that reads "Mark E. Arbesfeld". The signature is written in a cursive, flowing style.

By: _____

Mark E. Arbesfeld, Director
Office of Appeals

cc: VALERIE HARDY-MAHONEY
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
1301 CLAY ST STE 300N
OAKLAND, CA 94612-5224

TIMOTHY LIPSCOMB
UNION REPRESENTATIVE
PILE DRIVERS LOCAL UNION NO. 34
55 HEGENBERGER PL
OAKLAND, CA 94621

(b) (6), (b) (7)(C)

CLAYCO, INC. DBA CLAYCO
CONSTRUCTION COMPANY, INC.
2199 INNERBELT BUSINESS CENTER
SAINT LOUIS, MO 63114

ANDREW J. MARTONE, ESQ.
HESSE MARTONE, P.C.
530 MARYVILLE CENTRE DR
STE 250
ST. LOUIS, MO 63141

(b) (6), (b) (7)(C)

CLAYCO, INC. DBA CLAYCO
CONSTRUCTION COMPANY, INC.
2199 INNERBELT BUSINESS CENTER
SAINT LOUIS, MO 63114

TOD O'DONOGHUE, ESQ.
HESSE MARTONE, P.C.
530 MARYVILLE CENTRE DR
STE 250
ST. LOUIS, MO 63141

cl



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

July 22, 2021

MATTHEW J. GAUGER, ESQ.
WEINBERG ROGER & ROSENFELD
431 I ST STE 202
SACRAMENTO, CA 95814

Re: Clayco, Inc. dba Clayco Construction
Company, Inc.
Case 32-CA-275700

Dear Mr. Gauger:

Your appeal from the Regional Director's refusal to issue complaint has been carefully considered. The appeal is denied substantially for the reasons in the Regional Director's letter of June 11, 2021.

The Regional Office investigation disclosed that the allegation had arguable merit and the Regional Director conditionally dismissed the allegation. The Region's decision to conditionally dismiss the charge appears warranted and it would not effectuate the National Labor Relations Act to proceed further. If, however, a meritorious charge involving similar or related unfair labor practices is filed against the Charged Party during the six-month period following the Region's conditional dismissal, you may contact the Region to reconsider whether further proceedings on the instant charge are warranted.

Accordingly, the appeal is denied.

Sincerely,

Peter Sung Ohr
Acting General Counsel



By: _____

Mark E. Arbesfeld, Director
Office of Appeals

cc: VALERIE HARDY-MAHONEY
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
1301 CLAY ST STE 300N
OAKLAND, CA 94612-5224

TIMOTHY LIPSCOMB
UNION REPRESENTATIVE
PILE DRIVERS LOCAL UNION NO. 34
55 HEGENBERGER PL
OAKLAND, CA 94621

(b) (6), (b) (7)(C)

CLAYCO, INC. DBA CLAYCO
CONSTRUCTION COMPANY, INC.
2199 INNERBELT BUSINESS CENTER
SAINT LOUIS, MO 63114

ANDREW J. MARTONE, ESQ.
HESSE MARTONE, P.C.
530 MARYVILLE CENTRE DR
STE 250
ST. LOUIS, MO 63141

(b) (6), (b) (7)(C)

CLAYCO, INC. DBA CLAYCO
CONSTRUCTION COMPANY, INC.
2199 INNERBELT BUSINESS CENTER
SAINT LOUIS, MO 63114

TOD O'DONOGHUE, ESQ.
HESSE MARTONE, P.C.
530 MARYVILLE CENTRE DR
STE 250
ST. LOUIS, MO 63141